

JAP:TH

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

FILED UNDER SEAL

- against -

ALEJANDRO LUNA,

Defendant.

AFFIDAVIT AND COMPLAINT
IN SUPPORT OF AN ARREST
WARRANT

(T. 8, U.S.C., §§ 1326(a) and
1326(b)(2))

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EASTERN DISTRICT OF NEW YORK, SS:

VICTOR ROSARIO, being duly sworn, deposes and states that he is a Deportation Officer with the Department of Homeland Security, United States Immigration and Customs Enforcement, duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that on or about January 10, 2017, within the Eastern District of New York and elsewhere, the defendant ALEJANDRO LUNA, being an alien who had previously been arrested and convicted of an aggravated felony, and was thereafter excluded and removed from the United States, and who had not made an application for admission to the United States to which the Secretary of the Department of Homeland Security, successor to the Attorney General of the United States, had expressly consented, was found in the United States.

(Title 8, United States Code, Section 1326(b)(2)).

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Deportation Officer with United States Immigration and Customs Enforcement ("ICE") and have been involved in the investigation of numerous cases involving the illegal reentry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the ICE investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. The defendant, ALEJANDRO LUNA, is a citizen and national of Mexico who was convicted of attempted robbery in the second degree, a felony offense, on or about October 12, 2006. The defendant was sentenced to two years in prison, to be followed by three years' probation. On December 26, 2007, he was removed to Mexico.

3. The defendant was arrested on or about January 10, 2017 in Brooklyn, New York, for failure to comply with a posted sign in a park. The defendant was subsequently released. In connection with that arrest, the defendant indicated that he resided on Hart Street, in Brooklyn, New York.

4. An ICE official with fingerprint analysis training compared the fingerprints taken in connection with the defendant's arrest underlying his October 12, 2006 conviction and the fingerprints taken in connection with ALEJANDRO LUNA's December 26,

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

2007 removal and confirmed that the two sets of fingerprints were made by the same individual.

The defendant was not fingerprinted in connection with his January 10, 2017 arrest.

5. The police officer who arrested the defendant on January 10, 2017 was shown a photograph of the ALEJANDRO LUNA removed on December 26, 2017 and confirmed that ALEJANDRO LUNA and the individual he arrested were the same.

6. A search of immigration records has revealed that there exists no request by the defendant for permission from either the United States Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States after removal.

7. I request that the Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the affidavit and arrest warrant. Based upon my training and experience, I have learned that criminals actively search for criminal affidavits and arrest warrants via the internet. Therefore, premature disclosure of the contents of this affidavit and related documents will seriously jeopardize the investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence and change patterns of behavior.

WHEREFORE, your deponent respectfully requests that the defendant
ALEJANDRO LUNA be dealt with according to law.



VICTOR ROSARIO
Deportation Officer
United States Immigration and Customs
Enforcement

Sworn to before me this
27th day of January, 2017

THE HONORABLE VERA M. SCANLON
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK